

January 28, 2011

**Crisand Giles**  
Executive Director

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Bruce Wolf, Executive Director  
California Regional Water Quality Control Board  
San Francisco Bay Region  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

**RE: Comment Special Projects Proposal/LID Treatment Reduction Credits MRP Provision C.3.e.ii.(2)**

Dear Mr. Wolf;

On behalf of the BIA Bay Area (BIA) this letter is intended to respond to the BASMAA Special Projects Proposal/LID Treatment Reduction Credits for Municipal Regional Permit (MRP) Provision C.3.e.ii(2). We appreciate the opportunity to comment on this regional effort to achieve the collective goals of encouraging sustainable infill projects while developing effective strategies to address water quality concerns. While we support the BASMAA proposal as an important step to modify the MRP and encourage smart growth we do not feel the Proposal goes far enough to define an alternative compliance pathway to achieve LID volume reduction credits.

The BIA commends the seventy-six (76) BASMAA permittees and your staff for working to define the proposed Special Projects categories that will encourage infill project development where institutional barriers and site-specific constraints may limit the application of the LID treatment measures allowed by the MRP Provision C.3. However increasing the toolbox of LID best management practices to include tree-box, sand filter and/or vault type systems does not go far enough to reward infill development for reducing existing impervious surfaces or creating less accessory impervious area and auto-related pollutant impacts. A volume reduction credit should be at the heart of this program, without these important considerations the MRP will encourage low density fringe development where bioretention, infiltration, and evapotranspiration are cost effective and feasible.

When considered at the watershed scale certain types of smart growth benefit water quality objectives and should be incentivized. The BASMAA inventory analysis of potential projects that would qualify for Special Project consideration is alarmingly low. If the Special Project categories will not encourage the production of infill the ramifications of adopting this proposal in this economic climate will further constrain project financials and reduce housing supply. Meanwhile our pent up demand for new housing continues to grow in the Bay Area, only masked by record levels of unemployment. At the watershed level it is an environmental benefit to support volume reduction credits and encourage smart growth infill. Under the current proposal any project with surface parking is highly disadvantaged and may not qualify for any volume reductions, even for residential projects with the high densities described in Category B. While 30 units to the acre is a target for planning goals in San Jose or Oakland (as they strive to achieve 50 units to the acre) those densities would be considered high-rise for

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the majority of BASMAA permittees and should be reconsidered to align with individual community density patterns and development goals.

Nearly all Bay Area infill is planned in areas where low-permeability clay soils limit infiltration, they have less landscape space available, are economically marginal to construct and finance and undergo greater scrutiny to obtain building approvals. The MRP Provision C.3 prescribed methods of compliance currently require significant space within the development site, increasing the project complexity and introducing additional uncertainty regarding the permit approvals, financing and insurance needs. For projects in these categories none of the four prescribed LID options; infiltration, evapotranspiration, capture and reuse, or biotreatment can be counted on to be feasible for every planned development project. These problems are compounded when you consider conflicts with underground parking goals and utility location – all further limiting biotreatment and infiltration options. While progress has been made in technologies for stormwater capture and reuse and green roofs they are not universally applicable due to excessive cost, structural requirements, limitations in roof slope, competition with solar programs, and financing and liability issues.

Local jurisdictions should be allowed to develop a water credit program that applies to certain types of development projects after evaluating the feasibility of meeting LID required with the approved on-site LID best management practices. If it is not feasible to fully meet the LID and treatment control obligations through these options, then specific project types should be able to claim water quality credits which reduce project obligations for selecting and sizing other treatment best management practices or participating in other alternative programs.

The environmental benefits of compact, infill, and redevelopment projects should be encouraged by allowing greater flexibility in the treatment of stormwater runoff and allowing treatment reduction credits for having less accessory impervious areas and auto-related pollutant impacts. The BASMAA proposal categories should be broad to include special consideration of Brownfield development, live-work projects, and redevelopment that reduces the overall impervious footprint of the project site. These project types provide additional environmental benefits and should be eligible for volume reduction credit consideration.

We ask that you please expand the BASMAA proposal with an emphasis to encourage the construction of smart growth. Thank you for your time and consideration, we look forward to actively participating in this process.

Best regards,



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